Remarks/Arguments

Claims 57-100 are pending in the application. Claims 57-100 were rejected. Claim 91 was rejected under 35 U.S.C. §112 as being indefinite for failing to point out and distinctly claim the subject matter of the invention. Claims 57, 58, 62, 78, 79 and 83-89 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,112,246 (Horbal *et al.*). Claims 59-61, 65, 66 and 80-82 were rejected under 35 U.S.C. §103(a) as being unpatentable over Horbal and further in view of U.S. Patent No. 4,750,197 (Denekamp *et al.*). Claims 63, 64, 67-77, 90 and 92-100 were rejected under 35 U.S.C. §103(a) as being unpatentable over Horbal and further in view of U.S. Patent No. 6,400,268 (Lindskog). No claims were listed as being objected to and no claims were allowed. By the foregoing amendment, claims 57, 63, 64, 67, 76, 77, 78, 85, 86, 89, 91, 92 and 95 are amended. Claims 84, 88 and 98 are cancelled. No new matter is presented.

Claim Rejections – 35 U.S.C. §112

This amendment amends a typographical error in claim 91 by deleting the dependent reference 86 and inserting therefor 90. Claim 90 provides the necessary antecedent basis. Similarly, this amendment amends claim 76 by deleting the dependent reference 68 and inserting therefor 75. Claim 75 provides the necessary antecedent basis for "the second sensor."

Claim Rejections – 35 U.S.C. §103

With respect to the rejection of claims 57, 58, 62, 78, 79 and 83-89 under 35 U.S.C. §103(a) as being unpatentable over Horbal, the Applicant respectfully disagrees.

As stated in MPEP §2143, "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." *In re Royka*. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*. "If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious." *In re Fine*.

As-amended, claims 57 and 78 claim that the communications between the server on the shipping container enclosure and a client is by a bidirectional wireless link and a webpage pertaining to the enclosure is hosted. Horbal does not teach an enclosure used for transporting

products, detecting a condition (of the enclosure), and/or communicating with a client over a wireless communications medium. Horbal teaches wireline communications between his microserver and a client as shown in FIGs. 3 and 6 over a wireline Ethernet connection.

With respect to the rejection of claims 59-61, 65, 66 and 80-82 under 35 U.S.C. §103(a) as being unpatentable over Horbal and further in view of Denekamp, the Applicant respectfully disagrees.

As stated in MPEP §2143, "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991).

Mere identification in the prior art of each element is insufficient to defeat the patentability of the combined subject matter as a whole. It must be explained why one of ordinary skill in the art would have been motivated to select the references and combine them to render the claimed invention obvious. Applicant's arguments stress the lack of motivation-suggestion-teaching. Rejections based on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Lee.*

Denekamp teaches an integrated container having a monitoring system that, depending on a specific configuration, may provide alerts and record data in case of an intrusion, and relays that information back to a central data collection and processing facility. The data acquisition system uses a "module" for control. The module responds to container intrusions by generating a sequence of data numbers corresponding to various conditions. The data numbers may be sent to the central data collection and processing facility via a radio link, which may be a paging system or wireless telephony.

The present invention employs sensors for detecting enclosure conditions, and may log

entries regarding enclosure conditions, *etc.*; however, the novelty is the use of a server on the enclosure that allows for bidirectional wireless communications over a network such as the Internet. The claimed client-server relationship of the present invention gives the enclosure (server) a unique identification, and that unique identification allows a client to access the webpage hosted by the server at any time.

A server is a computer system that provides services to other computing systems – clients - over a network. An IP (Internet protocol) address is typically used to identify each server, and is a unique address that devices use in order to identify and communicate with each other over a computer network using the IP standard. In this manner, a client application – browser - may communicate with any enclosure server accessible on the network. Each enclosure server may host its own webpage of information pertaining to a specific shipping container enclosure via the browser. The enclosure server webpage may be retrieved from any client at any location limited only by the reliability of the wireless link. A user located anywhere may therefore interrogate any enclosure server located anywhere, that is available on the network, at any time, and check its condition.

Denekamp does not teach <u>bidirectional wireless</u> communications between a container and its central processing facility. Denekamp teaches "downloading" alarm numbers to the central processing facility.

With respect to the rejection of claims 63, 64, 67-77, 90 and 92-100 under 35 U.S.C. §103(a) as being unpatentable over Horbal and further in view of Lindskog, the Applicant respectfully disagrees.

Lindskog teaches a continuous conductor that is formed as a mesh and is laminated between two materials in a predefined panel. The conductor ends are for coupling at opposite ends of a panel. The conductor mesh is used as an entry switch. If the material is cut or punctured, electrical continuity is lost, and a monitoring circuit coupled to both conductor ends may sound an alarm.

The present invention uses a resistive mat where overall resistance – not continuity - is measured and monitored.

Regarding the rejection pertaining to claim 77, the examiner posits that "Horbal discloses

10

that a remote computing device (end-user pc) is adapted to wirelessly communicate with the server by way of the Internet, and the server is adapted to generate a wireless system about the enclosure (see entire Horbal reference)." It is unclear where this is taught in Horbal. The word wireless is not found in Horbal (pdf word search). Further, FIGs. 3 and 6 show the communicating means Horbal uses – a wireline Ethernet connection.
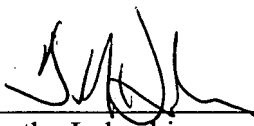
The above-identified invention uses an existing computer network (Internet) in conjunction with mobile telephony or satellite relay to allow for bidirectional wireless communications between any enclosure server and any client browser. Independent claims 57 and 78 have been amended to more clearly point out the inventive features.

If the Examiner believes that a further telephonic interview will facilitate allowance of the claims, he is respectfully requested to contact the undersigned at 203-777-2268.

Accordingly, Applicants submit that the pending claims are in condition for allowance.

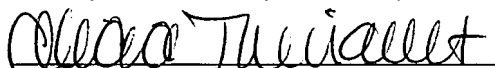Please charge any fees or deficiency or credit any overpayment to our Deposit Account of record.

Respectfully submitted,
David C. Loda

By_____
Timothy Lubecki
Attorney for Applicant
Reg. No.: 38,953

Telephone: 203-777-6628
Telefax: 203-865-0297

Date: June 22, 2007

I, Alicia Therriault, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on June 22, 2007.

Alicia Therriault